



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,804	01/17/2001	Sung-Ho Choi	678-594 (P9711)	7731

7590 05/14/2004
Dilworth & Barress, LLP
333 Earle Ovington Blvd.
Uniondale, NY 11553

EXAMINER

CANGIALOSI, SALVATORE A

ART UNIT PAPER NUMBER

2661

DATE MAILED: 05/14/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/764,804

Applicant(s)

CHOI ET AL.

Examiner

Salvatore Cangialosi

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed.
- 6) ☒ Claim(s) 9, 10 and 13-15 is/are rejected.
- 7) ☒ Claim(s) 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2661

1. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claims 9, 10, 13-15 are rejected under 35 U.S.C. § 103 as being unpatentable over Okawa et al in view of Gilhousen (both cited by applicant).

Regarding claim 9, Okawa et al (See pages 618-622) disclose a method for assigning OVSF orthogonal multicode tree codes having different information rate some much higher than others the tree structure having parent child properties(See Fig. 3 page 619) substantially as claimed. It is noted that that a spreading system must include both data and control signals. The differences between the above and the claimed invention are the specific control channel. Gilhousen (See Col. 4, line 60) shows explicit control messages. It is further noted that control messages are usually smaller and slower than data. It would have

Art Unit: 2661

been obvious to the person having ordinary skill in this art to provide a similar arrangement Okawa et al because they are well known and conventional functional equivalents of spreading sequences in the prior art. Regarding the node allocation limitations of claim 10, Okawa et al (See Fig. 3 page 619) show the C type tree structure which is the functional equivalents of the claim. Regarding claim 13, Okawa et al (See pages 618-622) disclose a method for assigning OVSF orthogonal multicode tree codes having different information rate some much higher than others the tree structure having parent child properties(See Fig. 3 page 619) substantially as claimed. It is noted that that a spreading system must include both data and control signals. The differences between the above and the claimed invention are the specific control channel. Gilhousen (See Col. 4, line 60) shows explicit control messages. It is further noted that control messages are usually smaller and slower than data and it would be obvious to employ the slower channel for control. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement Okawa et al because they are well known and conventional functional equivalents of spreading sequences in the prior art. Regarding claim 14, Okawa et al (See pages 618-622) disclose a means for assigning OVSF orthogonal multicode tree codes having different information rate some much higher than others the tree structure having parent child properties(See Fig. 3 page 619) substantially as claimed. It is

Art Unit: 2661

noted that that a spreading system must include both data and control signals and a memory means. The differences between the above and the claimed invention are the specific control channel. Gilhousen (See Col. 4, line 60) shows explicit control messages. It is further noted that control messages are usually smaller and slower than data. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement Okawa et al because they are well known and conventional functional equivalents of spreading sequences in the prior art. Regarding claim 15, Okawa et al (See pages 618-622) disclose a means for assigning OVFS orthogonal multicode tree codes having different information rate some much higher than others the tree structure having parent child properties(See Fig. 3 page 619) substantially as claimed. It is noted that that a spreading system must include both data and control signals and a memory means. The differences between the above and the claimed invention are the specific control channel. Gilhousen (See Col. 4, line 60) shows explicit control messages. It is further noted that control messages are usually smaller and slower than data. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement Okawa et al because they are well known and conventional functional equivalents of spreading sequences in the prior art.

Claims 11 and 12 are objected to as being dependent on rejected claims. It is also noted that claims 1-8 should be a

Serial Number: 09/764,804

5

Art Unit: 2661

single sentence with the formulas included with the body of the claims which is typical of most patents.

Any inquiry concerning this communication should be directed to Salvatore Cangialosi at telephone number (703) 305-1837. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms, can be reached at (703) 305-4703.

Any response to this action should be mailed to:


Commissioner of Patent and Trademarks

Washington, D.C. 20231

or faxed to (703) 872-9306

Hand delivered responses should be brought to Crystal Park II; 2121 Crystal Drive, Arlington, Virginia, Sixth Floor(Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.


SALVATORE CANGIALOSI
PRIMARY EXAMINER
ART UNIT 222